

Delegated Decision

01 April 2019

Enforcement of Disabled Persons' Blue Badge Fraud

Ordinary Decision.



Report of Transport and Contract Services

Stuart Timmiss, Head Of Development And Housing (in the absence of Adrian White)

Electoral division(s) affected:

Countywide

Purpose of the Report

- 1 To seek authorisation for the Blue Badge Enforcement Group, consisting of Parking Services and Fraud Team, to investigate and initiate enforcement action under the Chronically Sick and Disabled Persons Act 1970 (as amended), the Road Traffic Regulation Act 1984, the Fraud Act 2006, the Forgery and Counterfeiting Act 1981, the Theft Act 2006, and the Disabled Persons (Badges for Motor Vehicles) Regulations 2000.

Executive summary

- 2 The primary concern of Blue Badge Fraud is that it disadvantages genuine badge holders. People in genuine need are prevented access to parking facilities.
- 3 A secondary concern is the cost to the public purse. The National Fraud Authority estimates that Blue Badge Fraud costs the country up to £46m.
- 4 In County Durham, by claiming exemption from Durham City's Road User Charge, a badge holder saves £600 per year. By avoiding paying the half hourly parking charges on the busiest street in Durham City, Old Elvet, a further £3,000 per year can be saved. While these are extreme cases, estimates indicate the average user saves £1,136 each year. Therefore, if the authority were to take 10 fraudulently used badges out of circulation in a year, this could lead to an increase of over

£10,000 in pay and display revenue.

Recommendation

- 5 It is recommended that the Blue Badge Enforcement Group are authorised to carry out enforcement activity including on street detection and enforcement of fraudulent use of Disabled Persons' Blue Badges through interviews under caution and prosecutions in conjunction with Legal Services and the Corporate Fraud Team.

Background

- 6 The Traffic Management Act 2004 and Disabled Persons Parking Badges Act 2013 gives enforcement officers the 'power to inspect' Blue Badges. The power can only be exercised when a person is in the vehicle, or if they are leaving or returning to the vehicle.
- 7 When using the 'power to inspect', the officer can then check the detailed information on the badge and photograph on the badge rear.
- 8 Where Blue Badge Fraud is suspected, it is essential that full written records are taken, including descriptions of any persons connected with the vehicle, who parks the vehicle, who gets out of the vehicle and where they go upon leaving. Photographic evidence should be collected along with the notes.
- 9 As part of the evidence gathering process, an interview with the suspect may be conducted under caution, in line with the Police and Criminal Evidence Act 1984.
- 10 In some instances it may be necessary for the Police to attend the investigation. A partnership with the Police would increase the effectiveness of enforcement action as, along with the powers of arrest, they can carry out checks on insurance and vehicle excise duty.
- 11 Once the relevant evidence has been collected, the Blue Badge Group will discuss each case with the Legal Service, Children and Adults Services and the Corporate Fraud Team, and collectively decide whether to prepare the case for prosecution. The Corporate Fraud Team will assist in the preparation of the case files for any prosecutions.
- 12 Where appropriate, when it is decided a case is not to proceed to prosecution, the Blue Badge Group may issue an advisory warning letter.
- 13 On site investigations will take place at locations or vehicles identified either by intelligence gathered by Civil Enforcement Officers or by information volunteered by the public or other agencies. These investigations will complement other measures such as advertising campaigns.

Staff Training

- 14 It is important that staff are trained to collect strong evidence for potential prosecutions. Staff within the Blue Badge Group have experience with parking legislation including the Road Traffic Regulation Act 1984, and have prepared evidence for Traffic Penalty Tribunal adjudication cases relating to parking contraventions. Staff are also

trained and qualified to effectively collect evidence meeting the quality and standards required of the Police and Criminal Evidence Act 1984.

- 15 Investigations relating to Blue Badge Fraud must be carried out sensitively and Parking Services staff will undertake required disability awareness training prior to the commencement of enforcement.
- 16 Parking Services staff investigating fraudulent use of Blue Badges will not make assessments on mobility and will not make any assumptions about why the holder has been issued with a badge.

Conclusion

- 17 The Blue Badge Enforcement Group are authorised to carry out enforcement activity including on street detection and enforcement of fraudulent use of Disabled Persons' Blue Badges through interviews under caution and prosecutions in conjunction with Legal Services and the Corporate Fraud Team. Text:

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Appendix 1: Implications

Legal Implications

Increase in workload for the litigation team to prosecute mis-use of a Blue Badge under the Fraud Act.

Finance

Legal cost for prosecuting blue badge fraud is £127 per case which is then claimed back from the defendant. However, it is up to the court to decide whether to award costs..

Consultation

Throughout the year, every effort will be made to publicise that investigations may be carried out. In addition, this includes bus back advertising and publication of successful prosecution.

Equality and Diversity / Public Sector Equality Duty

Enforcement will maintain the integrity of the Blue Badge scheme and improve access to parking facilities for those in genuine need..

Human Rights

No impact.

Crime and Disorder

Investigations and publicised success should lead to a reduction in the current number of Blue Badge Fraud offences.

Staffing

Investigations are to be undertaken by the existing Blue Badge Enforcement Group.

Accommodation

No impact.

Risk

Reputational damage in not combating the recognised problem.

Procurement

No impact.